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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re RIPPLE LABS INC. LITIGATION,	)	Case No. 4:18-cv-06753-PJH
)	
	)	<u>CLASS ACTION</u>
)	
This Document Relates To:	)	REPLY MEMORANDUM IN SUPPORT OF
	)	BRADLEY SOSTACK'S MOTION FOR
ALL ACTIONS	)	APPOINTMENT AS LEAD PLAINTIFF
	)	AND APPROVAL OF COUNSEL
)	
	)	DATE: June 26, 2019
	)	TIME: 9:00 a.m.
	)	JUDGE: Hon. Phyllis J. Hamilton
	)	CTRM: Courtroom 3 (3rd Floor)

Before this Court are two competing motions for appointment as Lead Plaintiff. In addition to the motion filed by Bradley Sostack, a competing motion was filed by Vladi Zakinov, David Oconner and Anver Greenwald (the “Greenwald Group”). There is no dispute that Mr. Sostack has the largest financial interest in the relief sought by the Class and is therefore presumptively the most adequate plaintiff. *See* ECF No. 49. Nor does the Greenwald Group challenge that Mr. Sostack meets the adequacy and typicality requirements of F. R. Civ. P. 23(a), although the Greenwald Group did raise a question about whether Taylor-Copeland Law had sufficient resources to litigate this action.

When Mr. Sostack filed his motion for appointment as Lead Plaintiff, he had retained Taylor-Copeland Law and was engaged in a search for additional counsel to help prosecute this action on behalf of the Class. Mr. Sostack has since engaged Susman Godfrey L.L.P. (“Susman Godfrey”), a national law firm with very extensive class action experience, to serve as co-lead counsel.

For the reasons set forth below, the Court should grant Mr. Sostack’s motion, appoint Mr. Sostack as lead plaintiff, and approve his selection of counsel. *In re Cavanaugh*, 306 F.3d 726, 730 (9th Cir. 2002).

I. THERE IS NO DISPUTE THAT MR. SOSTACK HAS THE LARGEST FINANCIAL INTEREST IN THE LITIGATION

The Private Securities Litigation Reform Act of 1995 (“PSLRA”) directs the Court to “adopt a presumption that the most adequate plaintiff . . . is the person” that “has the largest financial interest in the relief sought by the class” and “otherwise satisfies the [adequacy and typicality] requirements of Rule 23.” 15 U.S.C. § 77z-1(a)(3)(B)(iii). The PSLRA “provides in categorical terms that the *only basis* on which a court may compare plaintiffs competing to serve as lead is the size of their financial stake in the controversy. Once it determines which plaintiff has the biggest stake, the court must appoint that plaintiff as lead, unless it finds that he does not satisfy the typicality or adequacy requirements.” *In re Cavanaugh*, 306 F.3d 726, 732 (9th Cir. 2002) (emphasis added). Here, there is not dispute that Mr. Sostack has the largest financial interest in the litigation. *See* ECF No. 49 (conceding that “it appears that Sostack claims a larger financial

interest than Zakinov, Oconer, and Greenwald.”).¹ Therefore, he is presumptively the most adequate plaintiff.

II. MR. SOSTACK SATISFIES THE REQUIREMENTS OF RULE 23

The Greenwald Group also does not seriously challenge that Mr. Sostack meets the adequacy and typicality requirements of Rule 23. There is no dispute that Mr. Sostack’s claims are typical of the claims of all Class members. Nor does the Greenwald Group contend that Mr. Sostack is subject to any unique defenses. Instead, the Greenwald Group suggests that the size of the law firm initially selected by Mr. Sostack raises “questions about how this large, potentially expensive to litigate class, action will be prosecuted.” ECF No. 49. But the Greenwald Group’s concern is not warranted. Mr. Sostack has conducted a thorough search and engaged counsel experienced in prosecuting both cryptocurrency and securities class action litigation. The two firms selected by Mr. Sostack – Taylor-Copeland Law and Susman Godfrey – have extensive know-how and resources to vigorously prosecute this action on behalf of the proposed Class. Susman Godfrey, a national firm, has over 150 attorneys with offices in Los Angeles, New York, Seattle and Houston, and has been appointed to serve as lead or co-lead counsel in numerous securities fraud and other class action cases. The addition of Susman Godfrey as co-lead counsel should dispel any concerns about the adequacy of the resources available to litigate this case on behalf of the proposed Class, if there were any question on that score.

When Mr. Sostack filed his motion for appointment as Lead Plaintiff on May 20, 2019, he had retained Taylor-Copeland Law and was engaged in a search for additional counsel to work with Taylor-Copeland Law and prosecute this action on behalf of the Class. Mr. Sostack has since engaged Susman Godfrey to work alongside Taylor-Copeland Law. As detailed below, Taylor-Copeland Law is a boutique litigation firm with specialized experience in litigating cryptocurrency securities cases. Susman Godfrey is a substantially larger firm with many years of experience in successfully litigating complex securities class actions. Mr. Sostack has thus selected competent,

¹ In fact, Mr. Sostack invested over thirty times the amount invested by the entire Greenwald Group, sustained over fifty times the losses sustained by that group, and plainly sustained more losses than any one of the members of that group. *See* ECF No. 50 at 2.

1 experienced, and qualified counsel with the resources to provide the highest caliber of legal
2 representation to the proposed Class.

3 As the movant with the largest financial losses, Mr. Sostack is the presumptive lead
4 plaintiff. Having also satisfied the requirements of Rule 23, Mr. Sostack's motion should be
5 granted and the Greenwald Group's competing motion for lead plaintiff should be denied.

6 **III. SOSTACK'S SELECTION OF COUNSEL SHOULD BE APPROVED**

7 The PSLRA vests authority in the lead plaintiff to select and retain lead counsel, subject to
8 the Court's approval. *See* 15 U.S.C. §77z-1(a)(3)(B)(v). The Court should not disturb the lead
9 plaintiff's choice of counsel unless it is necessary to protect the interests of the class. *See In re*
10 *Cohen*, 586 F.3d 703, 711-12 (9th Cir. 2009) ("if the lead plaintiff has made a reasonable choice
11 of counsel, the district court should generally defer to that choice"); *Cavanaugh*, 306 F.3d at 732-
12 35. Here, Mr. Sostack has selected Susman Godfrey and Taylor-Copeland Law to serve as co-
13 lead counsel in this case.

14 Since the firm's founding in 1980, Susman Godfrey has served as lead counsel in hundreds
15 of complex commercial cases in courts throughout the country. Susman Godfrey's practice is
16 dedicated exclusively to litigating and trying lawsuits. The firm has represented clients in some of
17 the largest and most complex cases ever litigated and has demonstrated that it has the ability and
18 resources to handle those cases effectively and efficiently. Susman Godfrey's experience is not
19 confined to a single practice area. Rather, the firm has successfully represented its clients in a wide
20 range of complex commercial disputes, including securities class actions.

21 Susman Godfrey's experiences, track record of success and staying power are reflected in
22 its wide recognition as one of the nation's leading trial firms, including by *The American Lawyer*
23 in its first-ever "Litigation Boutique of the Year" competition and, more recently, by being named
24 in 2014 and 2018 to *National Law Journal's* "America's Elite Trial Lawyers" list. The firm's
25 lawyers are consistently recognized as "Super Lawyers" and "Rising Stars" in the states where
26 they practice. Susman Godfrey has over 150 lawyers nationwide in its four offices, over 90% of
27 whom served in federal judicial clerkships after law school.

1 Marc M. Seltzer, one of Susman Godfrey’s most senior lawyers and resident head of the
 2 firm’s Los Angeles office, will oversee the firm’s efforts in this litigation. Mr. Seltzer has practiced
 3 law for more than forty-five years, litigating complex business law cases in state and federal courts
 4 throughout the United States. Mr. Seltzer has been appointed to serve as lead counsel for the
 5 plaintiffs in numerous securities and other class action cases. Most recently, he served as co-lead
 6 counsel in the *In re Allergan Securities, Inc. Proxy Violation Derivatives Litigation*. In that case
 7 a \$40 million settlement was achieved for the class of derivative securities investors he
 8 represented, which is believed to be the largest settlement ever obtained for derivative investors in
 9 an insider trading case. He also serves as court-appointed lead counsel in *Audet v. Fraser*, a
 10 securities class action involving the sale of unregistered cryptocurrency financial products.²

11 In 2013, Mr. Seltzer was named a Law360 “Class Action MVP,” one of only three attorneys
 12 to be so named in the nation. Mr. Seltzer was recognized for, among other achievements, his role
 13 as one of three co-lead counsel for the class plaintiffs and his work in helping to obtain an
 14 unprecedented settlement valued by the court at approximately \$1.6 billion in the *In re Toyota*
 15 *Motor Corp. Unintended Acceleration Marketing Sales Practices, and Product Liability*
 16 *Litigation*. Mr. Seltzer has also represented parties in antitrust, intellectual property, and other
 17 complex commercial litigation. He was recently named one of the leading 100 lawyers and one of
 18 the top 30 plaintiffs’ lawyers in California by the *Los Angeles Daily Journal*. He has also been
 19 included in the International Who’s Who of Competition Lawyers & Economists, as one of the top
 20 antitrust lawyers in the world. Mr. Seltzer is a Life Member of the American Law Institute and is
 21 also a member of the Advisory Board of the American Antitrust Institute.

22 Susman Godfrey partners Steven Sklaver and Oleg Elkhunovich will be included on the
 23 Susman Godfrey trial team. Named one of the Attorneys of the Year by *California Lawyer* in
 24 2017, and selected as one of the top plaintiff lawyers in California in 2016 and 2017, by *The Los*
 25 *Angeles Daily Journal*, Mr. Sklaver has successfully represented plaintiffs in several complex class
 26

27 ² Plaintiff’s motion for class certification is currently *sub judice*. In that case, plaintiffs defeated
 28 defendant Fraser’s motion to dismiss.

1 actions. Having obtained Bachelors and Masters degrees in Computer Science from Yale
2 University and with experience in the high-tech industry before entering the practice of law, Mr.
3 Elkhunovich specializes in cases at the intersection of law and technology. For example, together
4 with Messrs. Seltzer, Sklaver and other Susman Godfrey attorneys, including Kalpana Srinivasan,
5 who was named as one of the co-lead counsel, Mr. Elkhunovich is currently a part of the Susman
6 Godfrey team co-leading the *Qualcomm Antitrust Litigation*, one of the largest antitrust class
7 actions in history, involving alleged anti-competitive conduct in the cellular computer chip
8 industry.

9 Susman Godfrey's experience and the background of the Susman Godfrey trial team in this
10 case is more fully detailed in its firm resume attached as Exhibit A to the Declaration of Marc M.
11 Seltzer ("Seltzer Declaration"), filed concurrently herewith.

12 Taylor-Copeland Law is a boutique litigation firm that has unique experience litigating
13 cryptocurrency cases arising under the securities laws and has been involved in the instant case
14 since its inception. ECF No. 45-1 Ex. B, Taylor-Copeland Law Firm Resume. Taylor-Copeland
15 Law was one of the first firms in the country to focus on blockchain and cryptocurrency litigation
16 and is at the forefront of this rapidly developing area of law. *Id.* The firm is focused on
17 representing aggrieved investors and cryptocurrency users, is currently prosecuting three
18 additional securities class actions on behalf of initial coin offering investors and is co-lead counsel
19 in the *Centra Tech* securities litigation pending in the Southern District of Florida. *Id.*

20 It is respectfully submitted that Mr. Sostack's chosen counsel is competent, experienced,
21 and qualified to represent the Proposed Class. Accordingly, Susman Godfrey and Taylor-
22 Copeland Law should be appointed as co-lead counsel.

23 **IV. CONCLUSION**

24 Mr. Sostack has satisfied each of the PSLRA's requirements for appointment as lead
25 plaintiff and is the most adequate plaintiff. As such, Mr. Sostack respectfully requests that the
26 Court grant his motion for appointment as Lead Plaintiff and approve his selection of Susman
27 Godfrey and Taylor-Copeland Law as co-lead counsel.

1 DATED: June 10, 2019

Respectfully submitted,

2 /s/James Taylor-Copeland

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Proposed Co-Lead Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2019, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury that the foregoing is true and correct. Executed on June 10, 2019.

s/James Taylor-Copeland

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